  
December 8, 2003

United States Environmental Protection Agency  
Office of Civil Rights  
Mail Code 1201 A  
1200 Pennsylvania Ave. NW  
Washington, DC 20460

Attn: Karen D. Higginbotham, Director

Re: Tallassee Waste Disposal Center, Inc./ Sunflower, Inc.  
East Tallassee Alabama, Tallapoosa County  
Permit 62-11  
EPA OCR file No. 06R-03-R4

Dear Ms. Higginbotham,

The purpose of this letter is to inform the EPA of the decision by the Alabama Department of Environmental Management (ADEM) to issue the permit for modification of the Tallassee Waste Disposal Center. I received notification via a letter dated October 20, 2003. Included with the notice of approval were responses to comments made during the August 26, 2003 public hearing and also additional written comments submitted for inclusion in the record due by the August 29, 2003 deadline. A copy of this letter is enclosed.

I submitted to EPA a copy of my written comments to ADEM dated August 29, 2003, and I have been notified an investigation will be conducted to review the comments for acceptance as an administrative complaint.

For the purpose of background, the existence of this landfill began in the 1980's. Prior to the August 26, 2003 date the people of this community were never granted a public hearing in spite of ongoing public protests and complaints. It is our contention that this hearing was neither early, inclusive, or of substantive value since the process for the expansion/modification reached ADEM as early as March 2003. (See March 14, 2003 letter) As an adjacent landowner I received my first information concerning this expansion June 9, 2003 and was given until July 9, 2003 to respond and prepare. This written notice was the first time I was informed of any activity concerning the Tallassee Waste Disposal Center. It was of little value because a preliminary determination of renewal application was written June 5, 2003 (letter enclosed).

ADEM's response to comment 3 in the public hearing report that, "EPA has found no direct evidence of intentional discrimination in its investigation of ADEM's permitting process for municipal solid waste landfills", does not address the concerns of the people

of the Ashurst Bar/Smith Community by its continued refusal to address the recommendations listed in the June 2003 EPA investigative report. To be clear we are concerned that based on this EPA report ADEM should "undertake additional and independent analyses of such impacts during the states permitting phase for a facility if necessary". It is our contention that because of the many complaints from the community of the local authority's failure to conduct the site evaluations according to recommended site factors; ADEM should have conducted an independent analysis and submitted to the community its findings on socio-economics, population estimates, safety, and other health impact issues. Specifically, ADEM's acknowledgement that The Alabama Solid Wastes Disposal Act required the local authority (Tallapoosa County) to document its consideration of the site factors is what we were seeking to support our concern as to whether this was done.

In the many years that the citizens of the Ashurst Bar/ Smith Community have protested and pursued inclusion to participate in the policy making decisions in the locating or re-opening of the landfill in our community a satisfactory response has not been granted to support any effort by the governing authorities to allow our involvement. As evidence of the local authority's policy to ignore, in the event of this most recent modification request the local authority did not notify the community of the decision to authorize the relocation of a public road. I am particular concerned about the procedures of the local authority since the road's proposed design will go through the middle of my property, which is a violation of my rights to have due process in regards to the State seizing my land.

I am appalled at the continuing attitude and disregard of ADEM toward the recommendations in the investigative report of the US PROTECTION AGENCY OFFICE OF CIVIL RIGHTS FOR TITLE VI ADMINISTRATIVE COMPLAINT FILE NO. 28R-99-R4, YERKWOOD LAND FILL COMPLAINT JUNE 2003. Not only were the opening statements at the August 26, 2003 public hearing contrary to the report, this interpretation of limited scope to technical issues continues in the written October 2003 report as well.

Such blatant disregard of these recommendations warrants asking when and how the environmental policies mandated by our Federal Government are going to be enforced at the state and local level in Alabama? ADEM cites the Georgia case (Rozar v. Mullis, 85 F.3d 556) to justify its position, even though the EPA reports supporting documentation was not supplied in a previous request. Is it EPA's position to allow this trivialization or indifference to policy recommendations that protect the citizens of this country? What reasons contribute to the difference in what EPA interprets as the governing authority of ADEM and what this regulatory agency subscribes as its scope and functions?

It appears site has everything to do with landfill permitting, yet the agency charged to be the ultimate implementer of Alabama environmental policies will not assume responsibility for this very critical factor.



Due to ADEM's lack of involvement in site selection, the Tallapoosa County Commission has allowed four out of five landfills to be situated in majority African-American communities. Tallapoosa County is a majority White county, yet the African-American population is overwhelmingly bearing the burden of having landfills placed in their neighborhoods. (See [REDACTED] report) It is on this premise that we allege specific targeting of African-American Communities by landfill owners in Tallapoosa County and the failure of the Tallapoosa County Commission to properly utilize the siting factors required by EPA to make sure that a disparate situation is not caused. Based on the June 2003 report of EPA to ADEM, this agency is also in violation of Title VI, because in the absence of an adequate siting process the ultimate responsibility for compliance rests with ADEM.

Another point of concern is whether or not ADEM was completely honest and forthright with the information supplied to the citizens of the Ashurst Bar/Smith Community. The early documents listed the project as a major modification permission request (see letter dated April 30, 2003 ECE to Jonathan Crosby at ADEM). The US Corp of Engineers notice dated June 13, 2003 Public notice No. A103-0181-R Public notice to fill in wetlands to expand the use capabilities of the Tallassee Waste Disposal Center included property outside the existing permitted area. (See the Corp's Notice) The documents referred to the facility as 200 plus acres yet in other places it is listed as 120 plus acres, therefore confusing the community as to the size of the facility and the area included. Clearly the maps provided by the Corp included the relocation of Washington Blvd, the new boundaries bordering the local Church and the most populated area in the community. Wetlands were to be addressed by the Corp, yet in the ADEM's comment report we were told that the wetlands were approved August 2002 and were in the permitted area. Furthermore if the initial proposed work was changed a clarification notice should have been addressed to the adjacent property owners specifically identifying the property involved and the work to be done.

Although technical issues, such as continuous abnormal methane gas levels for the entire first year of the reopening, water run-off (compliance issues), the possible contamination of Gleeden Branch, the trespass of industrial chemicals which traversed the southern boundary of the landfill to contaminate a drinking water spring, the close proximity of the landfill to the natural gas line, inadequate roads through a rural neighborhood, the LOCATION of the new sedimentation pond, and the concern about the Tuscaloosa Aquifer were addressed to ADEM, these issues were not addressed in the comment report. So, it is not that ADEM does not address socio-economic issues, the agency apparently does not address any of the concerns raised by the people who are adversely impacted.

In summary, my complaint is that the public hearing was a formality and not of any substance since the only statement by ADEM was the opening statement that addressed its perceived limited scope to technical issues only, nor early when in fact a preliminary letter had been issued in June 2003. Additionally, ADEM's intention seems to be of non-compliance to the recommendations issued in the EPA June 2003 report. It leads me to

surmise that ADEM continues to ignore EPA's interpretation of the Alabama Solid Waste Act as not being as restrictive as the agency claims.


It is troubling that this governmental agency that receives tax funds and is charged to insure the well being and health of the citizens of this state is resorting to ignoring mandated policies in regards to maintaining a safe and healthy environment for its fellow citizens. In Tallapoosa County the African- American Communities should not overwhelmingly bare the waste disposal burden for the county. More specifically the Ashurst Bar/Smith Community is baring the burden for the 74 % majority White communities serviced out of the 19 counties by the Tallasse Waste Disposal center. It is not by accident that the Ashurst Bar/Smith Community was chosen, for it is an identified pattern by the Commissioners of Tallapoosa County to select sites in poor Black communities.

The overall impact of this landfill is the creation of a living environment that is inhumane which will continue the displacement of people and the ultimately loss of the land owned by African-Americans since the 1800's. Politicians grant permits for industries to locate in low income communities that cause environmental concerns and injustice issues on the premise that economic gains will be received by the communities affected. The Ashurst Bar/Smith Community has not received any financial or economic benefits from the Tallasse Waste Disposal Center. The workers are majority White and are from outside of the community and county. Therefore strengthening our charge of being left out of all aspects of this project.

The question more importantly is who will enforce TITLE VI or Executive Order 12,898, Federal Legislations passed to protect targeted groups of citizens such as the population of the Ashurst Bar/Smith Community in Tallapoosa County, Alabama against disparate situations when there is overwhelmingly evidence of disregard and discrimination?

Thanks in advance.

Sincerely, /



cc: Sen. Richard Shelby  
Sen. Jeff Sessions  
Rep. Mike Rogers

Rep. Artur Davis  
Governor Bob Riley  
Al. Sen. Hank Sanders  
Al. Rep. Ted Little  
Al. Rep. Betty Carol Graham  
Al. Rep. Yusuf Salaam  
U.S. Justice Department  
